IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BRITE SMART CORP.	§	
	§	
Plaintiff,	§	
	§	
v.	§	**Civ. Action No. 2:14-cv-760-JRG-RSP**
	§	
GOOGLE INC.	§	**JURY DEMANDED**
	§	
Defendant.	§	
	§	

PATENT RULE 4-3 JOINT CLAIM CONSTRUCTION
AND PRE-HEARING STATEMENT

Pursuant to Local Patent Rule 4-3 and the Court's Docket Control Order, Plaintiff Brite Smart Corp. ("Brite Smart" or "Plaintiff") and Defendant Google Inc. ("Google") hereby submit this Joint Claim Construction and Prehearing Statement.

I.   P.R. 4-3(a) – Agreed Constructions

The parties have meet-and-conferred pursuant to P.R. 4-2(c) and have agreed to certain claim terms and phrases:

Term	Claims	Agreed Construction
code	All claims	"a series of letters, numbers, or other symbols to represent or identify something"
encoded	'057: 11	"convert into a different format"
global unique identifier	'667: 6, 11, 15, 23 '763: 6, 11, 19	"a unique, 128-bit reference number"
"merchants"	'104: all; '667: 1, 18; '763: 1, 14; '057: all	"providers of goods or services"
receiving … from	'667: all; '763 all	"receiving … from, either directly or through a network such as the Internet"
server	'104: claim 9; '667 all; '763 all; '057 all	"a computer that provides information or services to other computers on a network"

| transmitting … to | '667: 1, 18; '763: 1, 14 | "transmitting… to, either directly or through a network such as the Internet" |

II.   P.R. 4-3(b) – Proposed Constructions for Disputed Claim Terms and Supporting Evidence

A.   Brite Smart's Position

Exhibit A contains Brite Smart's proposed constructions for each disputed claim term and

intrinsic and other evidence in support.

1.   Terms and Phrases that the Parties Agree Require Construction

The parties agree that the following ten claim terms and phrases require construction:

Term	Patent Claims
"client"	['667: all] ['763: all] ['057: all]
"cookie"	['104: 5, 13] ['667: 3, 21] ['763: 3, 17] ['057: 9]
"determining whether the requested link to the merchant website is legitimate or fraudulent by examining a duration between two visits to the one of the merchant websites in the code"	['104: 1]
"fraud / fraudulent / fraudulent activity"	['104: all] ['667: all] ['763: all]
"invalid click(s)"	['057: all]
"pay-per-click engine"	['763: 10-14]
"pay-per-click system"	['104: all] ['667: 1, 18] ['763: all]
"requested link"	['104: all]
"search engine"	['104: all] ['667: all]
"in an order according to incremental compensation for click-through to the websites"	['104: all]

2. Terms and Phrases Requested by Brite Smart for Construction

In addition, Brite Smart contends that the following claim phrase requires construction:

Term	Patent Claims
"clicks on one of the merchant websites"	['104: 1,9]

3. Terms and Phrases Requested by Google for Construction

In addition, Google contends that the following 21 claim terms and phrases require

construction:

Term	Patent Claims
"client side"	['667:10, 14] ['763: 10]
"code identifying [a/the/said/at least one] device/ end user's computer"	['667: 10,14] ['763: 10] ['057: all]
"code uniquely identifying a/the device / unique code [] for identifying said client / end user's computer"	['104: all] ['667: 1, 11, 18] ['763: 1, 11, 14]
"concatenating the another code to the code previously generated / the another code is concatenated to the code previously generated"	['104: all]
"concatenating said code with at least one of said links to said websites"	['763: 5]
"determining from said data whether said at least one of said selections of said at least one web page is fraudulent"	['667: 10, 14] ['763: 10]
"determining whether the requested link to the merchant website is legitimate or fraudulent by examining a duration between two visits to the one of the merchant websites in the code"	['104: 1]
"examining a duration between/of two visits [] in the code"	['104: all]
"measuring the duration between clicks [] by examining said code"	['667: 1, 18; '763: 1, 14]
"examining a duration between a time of one of said selections/clicks [] and a time of another of said selections/clicks"	['667: 10, 14; '763: 10, '463: 10]
"examining a difference between said first time and said second time"	['057: all]
"information about one or more selections/clicks by the	['667: 10, 14]

[end] user"	['763: 10]
"links associated with [] web pages"	['667: 10, 14] ['763: 10] ['057: all]
"links associated with [] websites"	['667: 1, 18] ['763: 1, 14]
"predetermined number of requests from the user during a given period of time"	['104: 7, 15]
"receiving [] a [search] request from a client / receiving a request from an end user's computer"	['667: 1, 18] ['763: 1, 14]
"search request"	['667: 1, 18]
"server side / server side computing device"	['667: all] ['763: all] ['057: all]
"web pages"	['667: 10, 14] ['763: 1, 14] ['057: all]
"websites"	['104: all] ['667: 1, 18] ['763: 1, 14]
"website information regarding a website selected/clicked by the client"	['667: 1, 18] ['763: 1, 14]

4.   Identification of Antecedent Bases

Brite Smart contends that the phrases of the claims do not require the identification of a

specific antecedent basis as part of Claim Construction. In addition, Brite Smart contends that no

phrases of any claims are indefinite for lack of an antecedent basis.

5.   Ordering of Method Claim Steps

Brite Smart contends that no construction relating to the ordering of method claim steps

is necessary and that the order is dictated by the claim language or no order is required.

B.   Google's Position

Google's positions for each disputed claim term and intrinsic and other evidence in

support are contained in Exhibit B.

III.   P.R. 4-3(c) – The Anticipated Length of Time Necessary for the Claim Construction Hearing

The parties anticipate that the Claim Construction Hearing will require approximately 4

hours, with each side being allotted 2 hours.

IV.   P.R. 4-3(d) – Witnesses the Parties Propose to Call at the Claim Construction Hearing

The parties do not presently plan to submit expert declarations or offer expert testimony

in connection with Claim Construction.

V.   P.R. 4-3(e) – Other Issues

The parties are aware of no other outstanding issues that need to be taken up at a pre-

hearing conference before the Claim Construction Hearing.

DATED: April 10, 2015   Respectfully submitted,

                                        /s/ *Robert Katz*___
                                        Stafford Davis
                                        State Bar No. 24054605
                                        Email: sdavis@stafforddavisfirm.com
                                        THE STAFFORD DAVIS FIRM, PC
                                        305 South Broadway
                                        Suite 406
                                        Tyler, TX 75702
                                        Phone: (903) 593-7000
                                        Fax: (903) 703-7369

                                        Robert D. Katz
                                        Lead Attorney
                                        State Bar No. 24057936
                                        Email: rkatz@katzlawpllc.com
                                        KATZ PLLC
                                        6060 N. Central Expressway, Suite 560
                                        Dallas, TX 75206
                                        Phone: (214) 865-8000

                                        ATTORNEYS FOR PLAINTIFF
                                        BRITE SMART CORP.

Michael E. Jones, SNB: 10929400
POTTER MINTON LLP
110 N College Avenue, Suite 500
Tyler, TX 75702
903-597-8311
mikejones@potterminton.com

Michelle A. Clark
David A. Perlson
Quinn Emanuel Urquhart & Sullivan, LLP
50 California Street, 22nd Floor
San Francisco, CA 94111
michelleclark@quinnemanuel.com
davidperlson@quinnemanuel.com

**ATTORNEYS FOR DEFENDANT
GOOGLE INC.**

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic services on this the 10th Day of April, 2015.

/s/ ___ *Robert Katz* ___